



JFW

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TRANSMITTAL FORM

(to be used for all correspondence after initial filing)

Total Number of Pages in This Submission

22

Application Number

10/758,514

Filing Date

01/15/2004

First Named Inventor

Wollgast et. al.

Art Unit

3671

Examiner Name

Novosad, Christopher J.

Attorney Docket Number

03005

ENCLOSURES (Check all that apply)



Fee Transmittal Form



Fee Attached



Amendment/Reply



After Final



Affidavits/declaration(s)



Extension of Time Request



Express Abandonment Request



Information Disclosure Statement



Certified Copy of Priority Document(s)



Reply to Missing Parts/
Incomplete Application



Reply to Missing Parts
under 37 CFR 1.52 or 1.53



Drawing(s)



Licensing-related Papers



Petition



Petition to Convert to a
Provisional Application



Power of Attorney, Revocation
Change of Correspondence Address



Terminal Disclaimer



Request for Refund



CD, Number of CD(s) _____

☐ Landscape Table on CD



After Allowance Communication to TC



Appeal Communication to Board
of Appeals and Interferences



Appeal Communication to TC
(Appeal Notice, Brief, Reply Brief)



Proprietary Information



Status Letter



Other Enclosure(s) (please identify
below):

Claim listing, Replacement
Drawing, Clean Specification, and
Office Action Dated 06/28/06.

Remarks

This is a reply to office action Ex Parte Quayle dated June 28, 2006

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

Firm Name

Machetta Law Firm, P.C.

Signature

Printed name

Gary M. Machetta

Date

7/19/06

Reg. No.

53,251

CERTIFICATE OF TRANSMISSION/MAILING

I hereby certify that this correspondence is being facsimile transmitted to the USPTO or deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date shown below:

Signature

Typed or printed name

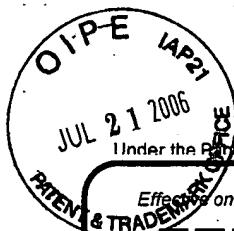
Gary M. Machetta

Date

7/19/06

This collection of information is required by 37 CFR 1.5. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to 2 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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Effective on 10/01/2004. Patent fees are subject to annual revision.

FEE TRANSMITTAL
For FY 2005☒ Applicant claims small entity status. See 37 CFR 1.27TOTAL AMOUNT OF PAYMENT (\$) **Complete if Known**

Application Number	10/758,514
Filing Date	01/15/2004
First Named Inventor	Wolcott et al
Examiner Name	3621
Art Unit	Novosel, Christopher J.
Attorney Docket No.	03005

METHOD OF PAYMENT (check all that apply)☐ Check ☐ Credit Card ☐ Money Order☒ Deposit Account ☐ NoneDeposit
Account
Number502987Deposit
Account
NameMachetta Law Firm

The Director is hereby authorized to: (check all that apply)

☒ Charge fee(s) indicated below☐ Charge fee(s) indicated below, except for the filing fee☒ Charge any additional fee(s) or underpayments of fee(s) under 37 CFR 1.16 and 1.17☒ Credit any overpayments

to the above-identified deposit account.

☐ Other (please identify): _____**WARNING:** Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.**FEE CALCULATION****1. BASIC FILING FEE**

Fee Description	Fee (\$)	Small Entity Fee (\$)	Fee Paid(\$)
Utility Filing Fee	790	395	
Design Filing Fee	350	175	
Plant Filing Fee	550	275	
Reissue Filing Fee	790	395	
Provisional Filing Fee	160	80	
Subtotal (1) \$ _____			

FEE CALCULATION (continued)**2. EXTRA CLAIM FEES**

Fee Description	Fee (\$)	Small Entity Fee (\$)
Each claim over 20	18	9
Each independent claim over 3	88	44
Multiple dependent claims	300	150
For Reissues, each claim over 20 and more than in the original patent	18	9
For Reissues, each independent claim more than in the original patent	88	44
Total Claims		
_____ - 20 or HP = _____ x _____ = _____		
HP = highest number of total claims paid for, if greater than 20		
Indep. Claims		
_____ - 3 or HP = _____ x _____ = _____		
HP = highest number of independent claims paid for, if greater than 3		
Multiple Dependent Claims		

Subtotal (2) \$ _____		

3. OTHER FEES

Fee Description	Fee (\$)	Small Entity Fee (\$)	Fee Paid(\$)
1-month extension of time	110	55	
2-month extension of time	430	215	
3-month extension of time	980	490	
4-month extension of time	1,530	765	
5-month extension of time	2,080	1,040	
Information disclosure stmt. fee	180	180	
37 CFR 1.17(q) processing fee	50	50	
Non-English specification	130	130	
Notice of Appeal	340	170	
Filing a brief in support of appeal	340	170	
Request for oral hearing	300	150	
Other: _____			
Subtotal (3) \$ _____			

SUBMITTED BY

Signature	<u>[Signature]</u>	Registration No. (Attorney/Agent)	<u>53251</u>	Telephone	<u>201-455-6777</u>
Name (Print/Type)	<u>Gary H. Machetta</u>	Date	<u>7/19/06</u>		

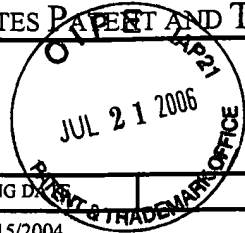
This collection of information is required by 37 CFR 1.136. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 30 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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Exhibit #3 – Replacement Sheet - Figures # 1 and 2



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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/758,514	01/15/2004	William Orman Wollgast	03005	5796

39047 7590 06/28/2006

MACHETTA LAW FIRM, P.C
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HOUSTON, TX 77068

EXAMINER

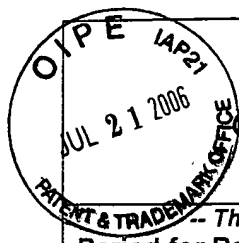
NOVOSAD, CHRISTOPHER J

ART UNIT PAPER NUMBER

3641

DATE MAILED: 06/28/2006

Please find below and/or attached an Office communication concerning this application or proceeding.



Office Action Summary

Application No.

10/758,514

Applicant(s)

WOLLGAST ET AL.

Examiner

Christopher J. Novosad

Art Unit

3641

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 2 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 April 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☒ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,3,8-11,14-16,20,21,25 and 26 is/are pending in the application.
- 4a) Of the above claim(s) 8-11,14-16,20 and 21 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1,3,25 and 26 is/are allowed.
- 6) ☐ Claim(s) _____ is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 20 April 2005 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

Art Unit: 3641

DETAILED ACTION

This application is in condition for allowance except for the following formal matters:

Election/Restrictions

In view of Applicant's election **without traverse** of Species I of the Group I invention (claims 1, 3 and new claims 25 and 26) in the reply filed on 04/20/2006, claims 8-11, 14-16, 20 and 21 stand withdrawn from further consideration under 37 CFR 1.142(b) as being drawn to non-elected inventions and species, there being no (allowable) generic or linking claim(s).

Claims 2, 4-7, 12, 13, 17-19 and 22-24 have been canceled.

Claims 1, 3, 25 and 26 remain for consideration by the Examiner.

Objections to the Drawings

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. The drawings do not show the "front surface" as being "*shaped as a concave shape*" as specifically recited in claim 1, line 7. The drawings (Figures 1, 3, 5 and 8) only show the front surface 11 as being convex-shaped. Therefore, the claimed "concave shape" of the "front surface" must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

The drawings are further objected to as failing to comply with 37 CFR 1.84(p)(5) and 37 CFR 1.83(a), 608.02(d), MPEP, because they do not include the following reference signs(s) and elements or details mentioned in the description:

Art Unit: 3641

The numeral "28" (referred to in page 5, line 7 of the latest "Clean Version" of the specification) is not shown in Fig. 2 of the drawing.

Specification Objections

The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required:

The specification fails to provide proper support or antecedent basis for the recitations (claim 1, line 7) that the front surface 11 *"is shaped as a concave shape"* with *"radius ranges from 4 to 16 feet"* (claim 3, line 2), and with *"radius ranges from 7 to 9 feet"* (claims 25 and 26). The specification (page 4) refers to the surface 11 only as "a curved front surface." However, it is noted that the original disclosure, i.e., in **original claims 3, 5, 10 and 11**, provides support for the "concave" and "convex" shaped curved surface 11 as having "radius ranges from 2 to 24 feet."

The specification further fails to provide proper support or antecedent basis for the recitation in claim 26, line 4, that the "clamping mechanism" is *"located at a distance furthest from the ground."*

Allowed Claims

Claims 1, 3, 25 and 26 are allowed subject to the formal matters noted above being corrected.

Conclusion

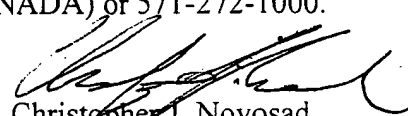
Prosecution on the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

A shortened statutory period for reply to this action is set to expire **TWO MONTHS** from the mailing date of this letter.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christopher J. Novosad whose telephone number is 571-272-6993. The examiner can normally be reached on Monday-Thursday 5:30am-4:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Carone can be reached AT 571-272-6873. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


Christopher J. Novosad
Primary Examiner
Art Unit 3641

June 26, 2006